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SENATE BILL 6214

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Jacobsen, Swecker, Rockefeller, and Kohl-Welles; by request of Department of Natural Resources

Read first time 01/14/08.                      Referred to Committee on Natural Resources, Ocean & Recreation.

1            AN ACT Relating to clarifying the authority of the department of  
2 natural resources to issue lesser contractual agreements within  
3 existing authorities for state-owned aquatic lands; amending RCW  
4 79.105.210; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
7 clarify the leasing authority of the department of natural resources.  
8 In *Northlake Marine Works, Inc., v. Department of Natural Resources*,  
9 134 Wn. App. 272 (2006), the court stated that statutory references to  
10 the term "lease" without reference to other contractual arrangements  
11 should be construed narrowly to mean just leases. This act clarifies  
12 that the department of natural resources' leasing authority includes  
13 the ability to issue contractual agreements that convey less than a  
14 full leasehold interest.

15            **Sec. 2.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to  
16 read as follows:

17            (1) The management of state-owned aquatic lands shall preserve and  
18 enhance water-dependent uses. Water-dependent uses shall be favored

1 over other uses in state-owned aquatic land planning and in resolving  
2 conflicts between competing lease applications. In cases of conflict  
3 between water-dependent uses, priority shall be given to uses which  
4 enhance renewable resources, water-borne commerce, and the navigational  
5 and biological capacity of the waters, and to statewide interests as  
6 distinguished from local interests.

7 (2) Nonwater-dependent use of state-owned aquatic lands is a low-  
8 priority use providing minimal public benefits and shall not be  
9 permitted to expand or be established in new areas except in  
10 exceptional circumstances where it is compatible with water-dependent  
11 uses occurring in or planned for the area.

12 (3) The department shall consider the natural values of state-owned  
13 aquatic lands as wildlife habitat, natural area preserve,  
14 representative ecosystem, or spawning area prior to issuing any initial  
15 lease or authorizing any change in use. The department may withhold  
16 from leasing lands which it finds to have significant natural values,  
17 or may provide within any lease for the protection of such values.

18 (4) The power to lease state-owned aquatic lands is vested in the  
19 department, which has the authority to make leases upon terms,  
20 conditions, and length of time in conformance with the state  
21 Constitution and chapters 79.105 through 79.140 RCW. The authority to  
22 lease as provided in chapters 79.105 through 79.140 RCW includes the  
23 authority to issue other lesser contractual agreements including but  
24 not limited to easements, licenses, permits, and rights-of-entry,  
25 unless the context clearly dictates otherwise.

26 (5) State-owned aquatic lands shall not be leased to persons or  
27 organizations which discriminate on the basis of race, color, creed,  
28 religion, sex, age, or physical or mental handicap.

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